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4283929 Delaware, LLC*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CURT WEIMAN,

Plaintiff,

vs.

4283929 DELAWARE, LLC; GATEWAY US
HOLDINGS, INC.; GATEWAY SERVICES,
INC.; DOES I through V; and DOE
CORPORATIONS I through V,

Defendants.

Case No.: 2:22-cv-01707-MMD-NJK

**STIPULATION AND ORDER TO
EXTEND TIME FOR DEFENDANT
4283929 DELAWARE, LLC TO FILE A
REPLY BRIEF IN RESPONSE TO
PLAINTIFF'S OPPOSITION TO
MOTION TO COMPEL
ARBITRATION; MOTION TO
DISMISS OR STAY THE CASE; AND
MOTION TO STAY DISCOVERY**

(Second Request)

Defendant 4283929 Delaware, LLC, by and through its attorneys, Jackson Lewis P.C., and Plaintiff Curt Weiman, by and through his counsel, Richard Segerblom, Esq., hereby stipulate and agree to an extension of time for Defendant to file a Reply to Plaintiff's Opposition to Motion to Compel Arbitration; Motion to Dismiss or Stay the Case, and Motion to Stay Discovery, which was due on December 6, 2022, up to and including December 13, 2022.

This is the second request for an extension of time to respond to Plaintiff's Opposition. On December 6, 2022, the parties submitted a stipulation seeking the same period of extension. (ECF 19). On December 7, 2022, the request was denied without prejudice for failing to state the reasons for the extension requested. (ECF 20).

Defendant seeks an extension because Defendant's counsel is currently engaged in

1 significant witness preparation efforts and defending depositions in an unrelated arbitration
2 proceeding involving 12 parties. The depositions were challenged in that proceeding and not certain
3 to proceed until the arbitrator issued an order on December 5th which scheduled depositions to take
4 place on December 6th and 9th. These events required counsel to immediately devote full attention
5 to the depositions. Further, undersigned counsel has been caring for an immediate family member
6 experiencing illness.

7 Pursuant to LR IA 6-1(a), Defendant's Counsel respectfully submits that the filing of this
8 stipulation following the December 6, 2022 deadline is the result of excusable neglect. Excusable
9 neglect exists where a party's failure to comply with a deadline was negligent. *See Lemoge v. United*
10 *States*, 587 F.3d 1188, 1195 (9th Cir.2009). There are at least four factors in determining whether
11 neglect is excusable: (1) the danger of prejudice to the opposing party; (2) the length of the delay
12 and its potential impact on the proceedings; (3) the reason for the delay; and (4) whether the movant
13 acted in good faith. *See Bateman v. U.S. Postal Serv.*, 231 F.3d 1220, 1223-24 (9th Cir. 2000). The
14 determination of whether neglect is excusable is ultimately an equitable one, taking account of all
15 relevant circumstances surrounding the party's omission. *See Pioneer Inv. Servs. Co. v. Brunswick*
16 *Assocs. Ltd. P'ship*, 507 U.S. 380, 395, 113 S. Ct. 1489, 123 L. Ed. 2d 74 (1993). This equitable
17 determination is left to the discretion of the district court. *See Pincay v. Andrews*, 389 F.3d 853,
18 860 (9th Cir. 2004).

19 Here, the filing of the second stipulation on December 7, 2022 meets the standard. There is
20 no prejudice to Plaintiff, who has already filed his Opposition to the Motions, and has consented to
21 the proposed extension. The length of delay is very short and will have minimal impact on the
22 proceedings. Additionally, Defendants diligently sought the agreement of Plaintiff within the time
23 provided to submit a response. Following the Court's Order denying the prior stipulation without
24 prejudice, Defendants' Counsel immediately prepared this stipulation to address the issue. Further,
25 Defendants have not sought to delay these proceedings and only seek an extension in good faith so
26 that they can respond to the arguments and authority raised in Plaintiff's briefing and reach a
27 determination on the merits.

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1 This Stipulation is brought in good faith and not for the purpose of delay.

2 DATED this 7th day of December, 2022.

3 JACKSON LEWIS P.C.

4 Kyle J. Hoyt

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12 *LLC*

/s/ Richard Segerblom

RICHARD SEGERBLOM, ESQ.

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Attorney for Plaintiff Curt Weiman

13 **ORDER**

14 IT IS SO ORDERED.

15 Dated: December 8, 2022.

16 
17 United States Magistrate Judge

18 4860-7439-5714, v. 1